

REMARKS

The following remarks together with the amendment to claim 38 presented above are submitted to be fully responsive to the Official Action dated July 13, 2005. It is further submitted that this response is timely filed within the three-month shortened-statutory period. Accordingly, no fee for an extension of time is believed necessary. Should any fee be required, the Commissioner is authorized to charge Kagan Binder Deposit Account No. 50-1775 and thereafter notify us of the same. Reconsideration of all outstanding grounds of the rejection and allowance of the subject application are believed in order and respectfully requested.

In the Official Action, claims 38-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The Examiner submits that in claim 38, "a second pressure surface" is not defined in the specification and that it is unclear as to which structural element it represents.

With reference to page 14, lines 26-28, of the present application as originally filed, a second pressure surface 106 is introduced and defined as a surface of piston 104. It is therefore respectfully submitted that claims 38-42 are not indefinite. Withdrawal of the rejection is respectfully requested.

Regarding the prior art rejections, claims 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,637,403 to Garcia et al. in view of U.S. Patent No. 5,582,184 to Erickson et al. The Garcia et al. reference does not teach or suggest a second pressure surface and needle fixed relative to each other and movable relative to a base as presently claimed and the Erickson et al. reference does not cure this deficiency in the primary reference. The rejection is therefore respectfully traversed.

Independent claim 38 is presently amended to recite that the second pressure surface is movable relative to the base. Moreover, claim 38 is presently amended to recite that the first pressure surface and base are distinct structural elements. Support for this amendment can be found in Figures 28-31 of the present application, which Figures exemplify the presently claimed structure and functionality. As shown needle 10 and second pressure surface 106 are fixed relative to each other, move relative to base 24, and also move relative to first pressure surface 66.

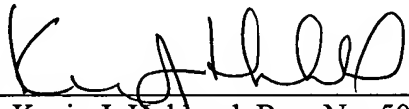
In contrast, the device shown in Figure 7 of the Garcia et al. reference does not include a second pressure surface movable relative to a base as presently claimed. It is respectfully submitted that the probe 234 and casing 202 of Garcia et al. correspond with the second pressure

surface and base of claim 38, respectively. The probe 234 and casing 202 of Garcia et al. are not movable relative to each other as presently claimed. These elements move together with each other when an upward thrust of a finger (combined with a downward force on casing 202) causes junctions 228a and 228b to release and drive needle 236 into the finger under the force applied to the casing 202. Diaphragm housing core 214 is fixed relative to casing 202 as is probe 234.

When released, diaphragm housing core 214, probe 234, and casing 202 all move together relative to release tube 224 and diaphragm tensioner 208. This action causes release tube 224 and diaphragm tensioner 208 to be effectively pulled upward by spring 206. There is no relative movement between probe 234 (second pressure surface as claimed) and casing 202 (base as claimed) in the Garcia et al. device and the Erickson et al. device does not cure this deficiency. Therefore, withdrawal of the rejection of record is respectfully requested.

In view of the above amendment to claim 38 and remarks, it is respectfully submitted that the claims and the present application are now in condition for allowance, which allowance is earnestly solicited. The Examiner is invited to contact the undersigned, at the Examiner's convenience, should the Examiner have any questions regarding this communication or the present application.

Respectfully Submitted,

By: 
Kevin J. Hubbard, Reg. No. 50,717
Customer Number 33072
Phone: 651-275-9813
Facsimile: 651-351-2954

Dated: 12 Oct 2005